IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 408 OF 2007

Shri Popat Yashwant Kadam .... Appellant

Vs.

Smt. Sonabi w/o Vithoba Kadam .... Respondents
deceased through his LRs.

Mr. Umesh Mankapure for Appellant.
Mr. N.R. Bubana for Respondent Nos. 1 to. 7

CORAM : A.S. OKA, J.
DATE : 14TH DECEMBER, 2007

P.C.

1) Heard Advocate appearing for the Appellant.

The Appellant is the defendant in a suit for specific performance. A decree for specific performance has been passed by the Trial Court which has been confirmed in Appeal by the District Court.

2) The contention of the Appellant is that the suit agreement was obtained by fraud and therefore the same cannot be enforced. The finding of fact recorded is that the suit agreement has been duly registered and there is an endorsement of Sub Registrar on the said agreement to the effect that the Appellant appeared before him and accepted that he had executed the suit agreement on accepting

Rs.20,000/-.

3) The Courts below have found that the agreement was signed by the Appellant's wife by way of confirmation. The Appellant failed to examine his wife as a witness. Therefore, by drawing adverse inference, the Courts below have not accepted the case made out by the Appellant.

4) In view of the concurrent findings of fact, no case is made out for interference. Appeal is accordingly dismissed.

5) Civil Application No. 749 of 2007 does not survive and is disposed of.

(A.S. OKA, J.)